

Office of the Secretary of Defense

§ 108.4

SOURCE: 75 FR 72682, Nov. 26, 2010, unless otherwise noted.

§ 108.1 Purpose.

This part:

(a) Establishes policy and assigns responsibilities under 10 U.S.C. 1074(c) for health care eligibility under the Secretarial Designee Program.

(b) Implements the requirement of 10 U.S.C. 2559 that the United States receive reimbursement for inpatient health care provided in the United States to foreign military or diplomatic personnel or their dependents, except in certain cases covered by Reciprocal Health Care Agreements (RHCAs) between the Department of Defense and a foreign country.

§ 108.2 Applicability.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) Does not apply to health care services provided to coalition forces in operational settings, or to allied forces in overseas training exercises and similar activities. Also, does not apply to health care services provided to foreign nationals overseas under DoD Instruction 3000.05,¹ DoD Instruction 2205.2,² or DoD Instruction 2310.08E.³

§ 108.3 Definition.

Secretarial Designee Program. The program established under section 1074(c) to create by regulation an eligibility for health care services in military medical treatment facilities (MTFs) as

well as dental treatment facilities for individuals who have no such eligibility under 10 U.S.C. chapter 55.

§ 108.4 Policy.

It is DoD policy that:

(a) *General Policy.* The use of regulatory authority to establish DoD health care eligibility for individuals without a specific statutory entitlement or eligibility shall be used very sparingly, and only when it serves a compelling DoD mission interest. When used, it shall be on a reimbursable basis, unless non-reimbursable care is authorized by this part or reimbursement is waived by the Under Secretary of Defense (Personnel & Readiness) (USD(P&R)) or the Secretaries of the Military Departments when they are the approving authority.

(b) *Foreign Military Personnel and Their Dependents.* (1) *MTF Care in the United States.* Foreign military personnel in the United States under the sponsorship or invitation of the Department of Defense, and their dependents approved by the Department of Defense to accompany them, are eligible for space-available care as provided in DoD Instruction 1000.13.⁴ Consistent with 10 U.S.C. 2559, in cases in which reimbursement is required by DoD Instruction 1000.13, a RHCA may provide a waiver of reimbursement for inpatient and/or outpatient care in the United States in a military medical treatment facility for military personnel from a foreign country and their dependents, if comparable care is made available to at least a comparable number of U.S. military personnel and their dependents in that foreign country. A disparity of 25 percent or less in the number of foreign personnel and dependents above U.S. personnel and dependents shall be considered within the range of comparable numbers.

(2) *Non-MTF Care in the United States.* Foreign military personnel in the United States under the sponsorship or invitation of the Department of Defense, and their dependents approved by the Department of Defense to accompany them, are not eligible for DoD

¹Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/300005p.pdf>.

²Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/220502p.pdf>.

³Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/231008p.pdf>.

⁴Copies available on the Internet at <http://www.dtic.mil/whs/directives/corres/pdf/100013p.pdf>.